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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

11 Cr. 170 (GBD)

5 CHRISTOPHER SCALIA,

6 Defendant.

7 -----x

8 New York, New York

9 March 10, 2016

12:05 p.m.

10 Before:

11 HON. GEORGE B. DANIELS,

12 District Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the

16 Southern District of New York

17 KIMBERLY RAVENER

Assistant United States Attorney

18 ABRAHAM C. MOSKOWITZ

19 Attorney for Defendant

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(Case called)

MS. KIM: Good afternoon, your Honor. Kimberly Ravener, for the government. With me at counsel table is probation officer Brian McNulty.

THE COURT: Good afternoon.

MR. MOSKOWITZ: Good afternoon, your Honor. Avram Moskowitz, for Mr. Scalia, who is standing to my left.

THE COURT: Good morning.

Let me start with the government and probation. What is the status from your perspective and how did you want to proceed?

MS. KIM: Your Honor, this defendant last appeared before you on February 18. At the time it was decided that he should enter inpatient drug treatment. That didn't happen. It is our understanding, however, based on discussions with defense counsel, that Mr. Scalia is prepared to commence inpatient drug treatment probably as soon as today or tomorrow, that a center, the ECI or Addiction Institute, has been identified for that purpose.

We would propose that that avenue be pursued and we set a date to come back before you perhaps in two weeks to assure that in fact that treatment is in place.

THE COURT: Mr. Moskowitz?

MR. MOSKOWITZ: Your Honor, that is correct.

The delay to my understanding was caused by the delay

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1 in Mr. Scalia being able to get back onto Medicaid. That
2 problem apparently has now been solved, and the hope is that
3 within the next couple of days we should be able to get him
4 into a program.

5 There is an intake process, and you have to go through
6 it. They have to accept you, but hopefully that should be able
7 to happen within the next couple of days.

8 To be on the safe side, we suggested a couple of
9 weeks, so that if there are any last-minute delays there are
10 other avenues that can be looked at or other programs that can
11 be looked at. But it is hopeful that as early as today or
12 tomorrow he could get into a program.

13 THE COURT: Is this inpatient or outpatient.

14 MR. MOSKOWITZ: Inpatient. He has been going at the
15 recommendation of the probation department to an intensive
16 outpatient program at St. Mark's Place, since a couple of days
17 after our last court appearance.

18 THE COURT: This is what I am going to suggest. I am
19 going to put it down for three weeks from today, March 31. If
20 he is in the program and everything is going according to
21 everyone's expectations, then give me a report either from
22 probation or a letter from the parties indicating that he is in
23 the program and things are working out and tell me when would
24 be an appropriate time to bring him back to Court. I don't
25 want to pull him right out of the program or make the program

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1 drag him into court if they are in the middle of moving forward
2 with some successful treatment.

3 So if he gets in the program, can notify me he is in
4 the program, tell me what the length of the program would be,
5 and what the status is with regard to the program. And, if
6 appropriate, we can adjourn that March 31 date to another day.

7 If he is not in the program or if it makes sense to,
8 if he's in the program, have the program bring him to Court or
9 release him for that, or we need to discuss something even in
10 his absence, then you can let me know and we can meet on the
11 31st.

12 But if the intent is to get him into the program and
13 see if he successfully completes the program, see if you can
14 get that into place and let me know if you have made that first
15 successful step.

16 Then we can see whether or not we should put it off
17 another 30, 60, or 90 days or whatever would be convenient,
18 consistent with his inpatient treatment.

19 MR. MOSKOWITZ: That is fine, your Honor.

20 What time on the 31st?

21 THE COURT: 10 o'clock on the 31st.

22 MR. MOSKOWITZ: Thank you.

23 THE COURT: That is what we will do.

24 I will see you on the 31st. Otherwise I will expect
25 to hear by letter --

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1 MR. McNULTY: Your Honor there is one other thing.

2 THE COURT: Yes.

3 MR. McNULTY: The defendant continues to fail to
4 report for drug screening, so we don't know the level of his
5 addiction.

6 THE COURT: I want him tested today.

7 MR. MOSKOWITZ: OK.

8 MR. McNULTY: He did come to the program. He did have
9 to get tested for the program as a backup.

10 THE COURT: He got tested where?

11 MR. McNULTY: At St. Mark's. We are still awaiting
12 for the results of that from this past Friday.

13 THE COURT: Do you want another test now?

14 MR. McNULTY: We need him to be on the random drug
15 screening program so he does get tested on the right basis.

16 THE COURT: What do you need from me?

17 So ordered. Do you need anything other than that?

18 MR. McNULTY: No, your Honor.

19 MR. MOSKOWITZ: I gather what that means, Judge, is if
20 Mr. Scalia gets into the program, we will let probation know
21 and then he obviously will be dealing with the program.
22 Otherwise, he will have to deal with the random screening at
23 the probation office.

24 THE COURT: No, it means something more than that.

25 Anytime probation decides they want to test him, he

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1 should show up and be ready to be tested.

2 MR. MOSKOWITZ: Fine, your Honor.

3 THE COURT: All right.

4 I will leave that to the discretion of probation.

5 I will see you on the 31st, unless I hear from you.

6 MS. KIM: Thank you, your Honor.

7 (Adjourned)